

April 14, 2009

Mr. Jon Howell
Georgia Health Care Association
160 Country Club Drive
Stockbridge, GA 30281

Re: Criminal Background Checks in Nursing Facilities

Dear Mr. Howell:

Thank you for your letter responding to the March 4, 2009, notice to Nursing Facilities sent by the Department of Community Health related to Criminal Background Checks. I regret any confusion that resulted from the Notice, and I appreciate the opportunity to clarify the Department's position. In reviewing the letter, the Association's concerns seem related to three areas: compliance by contracting entities, evidence of compliance, and the method to be used for recoupment of Medicaid funds paid to facilities found to be non-compliant.

The following responses address each of those concerns:

- Contracting entities versus facility employees: Section 106 (w) applies to *both* employees and contractors of nursing facilities as stated "Not employ or contract with a person, partnership or corporation previously terminated or suspended from the Program, barred from enrollment, previously or currently placed on the Department of Health and Human Services, Office of the Inspector General's sanction or exclusions lists, or has ever been convicted of any offense as described in §404(J) of this manual."
- Evidence of satisfactory compliance: The Department is reviewing current policy requirements that define evidence of satisfactory compliance.
- Recoupment method: This question has been referred to the Office of the Inspector General since it is that office that oversees all Program Integrity operations. A separate letter from the Inspector General will address your concerns related to recoupment of Medicaid funds in the case of non-compliance.

Please know that the Association and its members will be notified by the Department of the policy clarifications through written correspondence, banner messages, and manual updates. Please address any policy questions or concerns to Catherine Ivy, Director of the Long Term Care Unit, at 404-657-5467.

Sincerely,

Jerry Dubberly, Chief
Medical Assistance Plans

JD/ci
cc: Robert Finlayson III